

Notice of Allowability

Application No.

10/564,412

Examiner

Brian Szmaj

Applicant(s)

ITZEL, EVA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rolf Fasth on September 26, 2007.

The application has been amended as follows:

1. (currently amended) A method of monitoring a childbirth process of a pregnant woman, comprising:
~~in a measuring step, measuring a lactate concentration;~~
~~in a comparison step, determining whether the measured lactate concentration is~~
greater than a lactate threshold interval; and
subjecting the woman to alternative child birth options when the lactate concentration is greater than the lactate threshold interval.
2. (currently amended) The method according to claim 1 wherein the method further comprises determining whether labor is progressing normally ~~in a determining step.~~
3. (currently amended) The method according to claim 2 wherein the method further comprises measuring the lactate concentration when labor, ~~as determined in the~~
~~determining step,~~ has not started or is not progressing normally.

4. (currently amended) The method according to claim 3 wherein the method further comprises stimulating ~~in a stimulating step~~ the pregnant woman to give birth when the lactate concentration is less than the lactate threshold interval.

5. (currently amended) The method according to claim 4 wherein the method further comprises determining ~~in a determining step~~ whether labor is progressing normally.

6. (currently amended) The method according to claim 5 wherein the method further comprises measuring the lactate concentration when the labor is not progressing normally, ~~as determined in the determining step~~.

7. (currently amended) The method according to claim 1 wherein the method further comprises determining ~~in a determining step~~ whether labor is progressing normally when the lactate concentration is within the lactate threshold interval and providing stimulation to the pregnant woman when ~~it is determined in the determining step~~ that the labor is not normal.

8. (currently amended) The method according to claim 1 wherein the method further comprises ~~in a measuring step~~, measuring the lactate concentration in vaginal fluids;

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~~in a comparison step~~, determining whether the measured lactate concentration is greater than a predetermined lactate concentration that indicates that the membrane has ruptured and amniotic fluid has passed from an amnion of the pregnant woman.

9. (currently amended) The method of claim 8 wherein the method further comprises waiting ~~a waiting period~~ when the lactate concentration is less than the predetermined lactate concentration and again measuring the lactate concentration ~~in a measuring step~~.

10. (currently amended) The method of claim 9 wherein the method further comprises waiting ~~a waiting period~~ when the lactate concentration is greater than the predetermined lactate concentration.

2. The following is an examiner's statement of reasons for allowance: After reviewing the claims, the claims were found to be allowable since no prior art could be found teaching or suggesting the monitoring of a childbirth progress of a pregnant woman comprising: subjecting the pregnant woman to alternative child birth options when the lactate concentration is greater than the lactate threshold interval, as claimed in Claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art pertains to the current state of the art, but does not disclose the above allowable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BS


COMMISSIONER
EXAMINER
7/1/2009